

APPROVED Minutes of the **REGULAR MEETING OF THE ZONING BOARD** held on Tuesday, July 10, 2012, in the Public Meeting Room in the Village Hall, One Olde Half Day Road, Lincolnshire, IL.

PRESENT: Chairman Manion, Kalina, Leider and Member Van de Kerckhove.

ALSO PRESENT: Trustee Liaison Brandt; Stephen Robles, Planner, and Tonya Zozulya, Planner.

CALL TO ORDER: **Chairman Manion** called the meeting to order at 7:04 p.m.

1.0 ROLL CALL

The roll was called by **Planner Zozulya** and **Chairman Manion** declared a quorum to be present.

2.0 APPROVAL OF MINUTES

2.1 Approval of the Minutes of the Zoning Board Meeting held Tuesday, June 12, 2012.

Member Kalina moved and **Member Van de Kerckhove** seconded the motion to approve the minutes of the Regular Meeting of the Zoning Board held Tuesday, June 12, 2012, as submitted. The motion passed unanimously by voice vote.

3.0 ITEMS OF GENERAL BUSINESS:

3.1 **PUBLIC HEARING** regarding a variation request to Section 6-5A-5-A(1) of the Lincolnshire Zoning Code to permit a minimum lot area of 19,838 square feet, rather than the code permitted 20,000-square foot minimum lot area, for one of two lots in a proposed subdivision at 13 Reliance Lane (Angel Sidor).

Planner Robles summarized Staff's memorandum and presented that the variance request for a reduction in lot size was associated with the Petitioner's request to subdivide the current lot to create two individual lots. From the initial 1969 recording of the subdivision, 13 Reliance was recorded as a double-sized lot and has remained in its original size. Since the current lot is less than 40,000 square feet in overall size, it would not be possible to achieve two, 20,000 square foot code-compliant lots, which resulted in the requested variance to reduce the area of Lot 1. The southern lot, referred to as Lot 2, would retain the existing home at an even 20,000 square feet, while the northern lot, referred to as Lot 1, would have a lot size of 19,838 square feet. The splitting of the lot to essentially create two half-acre lots would be consistent with the character of the neighborhood and appear as part of the natural development pattern in this area. Therefore, Staff supported the subdivision request and for the reduction in lot size for Lot 1, subject to the condition in Staff's memorandum. **Planner Robles** concluded by noting that within the Presentation Packet was the Petitioner's response to the nine Standards for Variation for the Zoning Board's review, which the Petitioner then requested be entered into the record.

Paul Orzeske, representing Angel Sidor, summarized the request and explained that the interest in subdividing the lot was based on the economic situation and to retain the value in the property. He continued that the end goal was to remove the existing shed and parking surface, and landscape the entire lot.

Member Van de Kerckhove questioned that after the lot split, how access would be provided to the house on Lot 2 since there isn't a drive way except that on Lot 1. **Mr. Orzeske** explained that the eventual plan was to add a two-car garage and driveway to the existing home on Lot 2. **Member Van de Kerckhove** sought clarification on whether the driveway would connect to Reliance Lane and if an easement would be necessary. **Planner Robles** clarified that an easement would not be required since residential parking on adjoining lots is permitted by the Zoning Code. Once a new home is constructed on the new Lot 1, then the existing home on Lot 2 would need to construct the necessary parking and access on their own lot. **Trustee Liaison Brandt** further noted that since both Reliance Lane and Kings Cross Drive are both Village streets there won't be complications in access since the owners will not have to work with IDOT or Lake County DOT. The Village's Engineer and Director of Public Works would be able to determine where the appropriate curb cuts would be located, similar to what is done with new construction. She noted that the bigger issue may be where the curb cut for Lot 1 would be located, either along Kings Cross Drive or to Reliance Lane, due to the proximity of the intersection. There was additional discussion clarifying the access and driveway locations for both lots.

Trustee Liaison Brandt offered background information from the Village Board perspective and that the Village had been approached previously from the property owners and received a variance for the shed. The long term goal for the subject property always was to subdivide the property and remove the shed and parking area.

There being no further public comments, **Chairman Manion** closed the Public Hearing and reconvened the Zoning Board meeting.

- 3.2 Consideration and discussion regarding a variation request to Section 6-5A-5-A(1) of the Lincolnshire Zoning Code to permit a minimum lot area of 19,838 square feet, rather than the code permitted 20,000-square foot minimum lot area, for one of two lots in a proposed subdivision at 13 Reliance Lane (Angel Sidor).
- 3.3 Consideration and discussion regarding approval of a Final Plat of Subdivision for Sidor's Subdivision, within the R3 Zoning District, for the property commonly addressed as 13 Reliance Lane (Angel Sidor).

There was a consensus among the members for this request and the following motion was read:

Having made findings based on facts covered in a Public Hearing held on July 10, 2012, the Zoning Board unanimously recommended approval to the Village Board of a Final Plat of Subdivision for Sidor's Subdivision, as depicted in the plans prepared by R.E. Decker, P.C. Professional Land Surveyors, last revised May 21, 2012, with a variation to Section 6-5A-5-A(1), Site and Structure Provisions, to permit a minimum lot area of

19,838 square feet for Lot One, rather than the code permitted 20,000-square foot minimum lot area, subject to the conditions as presented in Staff's memorandum dated July 6, 2012.

The motion passed unanimously by voice vote.

- 3.4 **PUBLIC HEARING** regarding a variation request to Section 6-3-5-A-1(e), General Requirements of the Lincolnshire Zoning Code, to permit an existing detached storage shed to be located on a vacant lot prior to the establishment of a principal structure on the same lot, for the property located at 13 Reliance Lane (Angel Sidor).

Planner Robles provided background information on this item and noted that the second variance request was to retain the existing detached shed that would be located on the new Lot 1. The original home did not include a basement or attached garage; rather a driveway and detached shed were built at the northern end of the property to serve as parking and storage for the home. After a code change in 2004 regulating storage sheds, the Petitioner received a variance to permit the detached shed at its current location. By splitting the lot into two lots, the existing shed would become a primary structure on Lot 1, which is not permitted by the Zoning Code nor addressed by the previous variance. Since the existing shed received a variance in 2004, this request would continue its establishment. **Planner Robles** continued that Staff believed that permitting the shed to remain prior to the sale of Lot 1 would not alter the character from what had been in place on the subject site for many years. During referral of this request, the Village Board noted that there should be a condition placed that would require the shed to be removed when Lot 1 is sold or improved with a residence, whichever comes first. **Planner Robles** concluded by noting that within the Presentation Packet is the Petitioner's response to the nine Standards for Variation for the Zoning Board's review, which the Petitioner then requested be entered into the record.

There being no further public comments, **Chairman Manion** closed the Public Hearing and reconvened the Zoning Board meeting.

- 3.5 Consideration and discussion regarding a variation request to Section 6-3-5-A-1(e), General Requirements of the Lincolnshire Zoning Code, to permit an existing detached storage shed to be located on a vacant lot prior to the establishment of a principal structure on the same lot, for the property located at 13 Reliance Lane (Angel Sidor)

There was a consensus among the members in support of this request and the following motion was read:

Having made findings based on facts covered in a Public Hearing held on July 10, 2012, the Zoning Board unanimously recommended approval to the Village Board of a variation to Section 6-3-5-A-1(e), General Requirements, to permit an existing detached storage shed to be located on a vacant lot prior to the establishment of a principal structure on the same lot, as presented in Staff's memorandum dated July 6, 2012, and further subject to:

1. *The existing shed shall be removed from Lot 1 when said lot (Lot 1) is sold or improved with a residence, whichever occurs first.*

The motion passed unanimously by voice vote.

- 3.6 Continued consideration and discussion regarding a request for the issuance of a new Special Use Permit for the continued operation of an existing nursery school, to operate as an accessory use to the Community Christian Church, located at 1970 Riverwoods Road in the R1 Single-Family Residence Zoning District (Community Christian Church/Lincolnshire Montessori School).

Tonya Zozulya, Planner, summarized Staff's memorandum to the Zoning Board dated July 10, 2012. She stated that the Community Christian Church's request regarding the Lincolnshire Montessori School Special Use Permit was discussed at the June 12, 2012 Zoning Board meeting. After the Petitioner's presentation and testimony from adjacent residents (who expressed significant concerns related to the school's outdoor playtime hours and noise), the Zoning Board closed the Public Hearing and continued consideration and discussion regarding this matter to the July Zoning Board meeting, in order to allow the Petitioner the opportunity to seek a compromise regarding the noise issue. The Zoning Board also sought additional time to visit the church playground and adjacent streets to further investigate the noise issue. **Planner Zozulya** stated that the Community Christian Church and the Lincolnshire Montessori School have provided letters, outlining their efforts to accommodate the neighbors' concerns. The Petitioner's letter states that since the June Zoning Board meeting, church representatives met with concerned residents and discussed limiting the school morning playtime hours to 11:15 a.m.-11:45 a.m. (for a maximum of 30 minutes), and the afternoon playtime hours to 3:30 p.m. - 4 p.m. (for a maximum of 30 minutes). **Planner Zozulya** also stated that the school indicated that they have implemented the revised hours and kept the attached log of all children participating in outdoor activities since the week of June 11, 2012. The school is, however, seeking some flexibility to vary from the hours that were discussed with the adjacent residents, to 11:15 a.m.-12 p.m. for the morning playtime window (not to exceed 45 minutes). In addition, they are requesting flexibility to vary the afternoon playtime window, to 3:30 p.m.-5 p.m. (also not to exceed 45 minutes), to allow for better curriculum management and to provide for cases when weather conditions are not suitable for outdoor playtime. **Planner Zozulya** said that interested residents provided electronic correspondence clarifying their position regarding the outdoor playtime hours, which was provided to the Zoning Board prior to tonight's meeting. **Planner Zozulya** noted that the Petitioner indicated to Staff that since the June Zoning Board meeting their representatives also consulted with a certified arborist regarding the possibility of installing additional evergreen trees adjacent to the playground area, as discussed at the June meeting. After speaking with the arborist, they determined that any additional trees would not be effective in making a noticeable impact on sound transmission. **Planner Zozulya** indicated that the Lincolnshire Montessori School provided verification of the school's exemption from State licensing requirements for nursery schools, as part of the Village Code requirements for nursery schools. As previously stated, based on information provided by the Petitioner, Staff determined that all Code requirements regarding the operation of a nursery school have been met. **Planner Zozulya** reminded the Zoning Board that since the Public Hearing on this matter was closed at the June 12th

meeting, no new evidence from either the Petitioner or the public is permitted to be accepted at Tuesday's meeting during the Board's consideration and discussion regarding this request. The Village Attorney advised Staff that while the submittal of any new verbal or written commentary or correspondence on this matter will be permissible at tonight's meeting, it may not be treated as evidence that can influence the Zoning Board's deliberations regarding its findings of fact. **Planner Zozulya** further noted that the Code also requires that at least four Zoning Board members vote in favor of the variation request in order for the recommendation to be forwarded on to the Village Board with a favorable recommendation.

Perry Grace, Community Christian Church Treasurer, stated that Pastor Elliott spoke with Ms. Evie Cooper and reached a compromise regarding the school's outdoor playtime hours. He stated that Pastor Elliott was unable to attend tonight's meeting as he is out of town on a church trip. The compromise was that school children will be back from morning playtime by 12 p.m. and back from the afternoon playtime by 4 p.m. **Mr. Grace** noted that the school has honored these hours since June 15th. He stated that the hours are difficult to follow at all times due to hot weather conditions and humidity, which makes it unsafe for children to be outside. Therefore, the school is seeking flexibility to vary from those hours in specific cases.

Chairman Manion inquired as to how often the flexibility regarding the playtime hours will be required. **Mr. Grace** responded that it would depend on circumstances, and that the school will be able to provide further details. **Chairman Manion** stated that his understanding was that the hours variation would only be occasional.

Member Leider inquired whether the school would need to extend to 5 p.m. in June, July and August and until 4 p.m. the remainder of the year. **Mr. Grace** stated that school children nap from 1 to 3 p.m. He believes that the afternoon hours would mostly be until 5 p.m. rather than 4 p.m.

Member Van de Kerckhove inquired about the school's normal pick-up time. **Mr. Grace** said that most children are usually picked up close to 6 p.m.

Evie Cooper, 8 Victoria Lane, stated that no meetings have taken place between the school and neighbors, contrary to the Petitioner's assertion. The conversation she had with Pastor Elliott occurred by chance. After speaking with the church Pastor, she provided a summary of their conversation to her neighbors, in order to keep them informed. It is a struggle for her and other neighbors not to know when the school recess is. **Ms. Cooper** stated that she does not believe that outside play beyond 4 p.m. is appropriate, as residents should be given the opportunity to enjoy their yards. The 4 p.m. playtime end time would be acceptable to her but she cannot speak for other neighbors. She stated that by allowing the church use to continue, the Village would set a precedent for allowing a for-profit business to operate in a residential zone. If the school was affiliated with the church, and met all other Code requirements, she would not have an issue with it.

Steven Bauer, attorney with Ungaretti and Harris LLP, stated he is representing the Lincolnshire Montessori School. He also indicated for the record that he is a former

Village Planner at the Village of Lincolnshire. **Attorney Bauer** said that it does not matter whether it was a pre-arranged meeting or a chance meeting, with the relevant point being that a conversation regarding the playtime hours did take place. He also stated that in looking at the Code requirements regarding nursery schools, it is obvious that these requirements fit the Lincolnshire Montessori School. The school is not requesting any Code exceptions, and is only seeking approval of what the Code permits. Nursery schools are permitted to operate in the R1 District with a Special Use Permit. School children playing outside are no different than neighborhood children playing outside on a daily basis or at birthday parties.

Joy Serauskas, 1 Fairfax Lane, pointed out Code inconsistencies with regard to DCFS licensing requirements. The section of the Code regarding home daycare centers specifically requires DCFS licensing; however, the R1 residential section of the Code does not mention licensing in connection to the operation of nursery schools. She encouraged Staff to revisit this licensing issue in the Code.

Joan Cameron, 6 Victoria Lane, stated that she does not support the compromise. She further stated that a Special Use Permit should not be issued as this use is injurious to the public, and it may not be injurious per the required Special Use standards. She said that this use was not established without a Special Use Permit, nor was the playground added with a Special Use Permit. She said the church is not supposed to allow for-profit/commercial businesses on its property, and she is concerned that in addition to the school, the church is renting space out to a yoga business. She is also concerned that Staff's decision regarding this Special Use request was rendered before adjacent residents were consulted. **Ms. Cameron** further stated that she is concerned about school children's safety, as there is no DCFS-compliant fence provided for the playground area. She said that the school's Long Grove location does have a DCFS-compliant fence, which was also a stipulation of the school's Special Use approval by the Long Grove Village Board. She further stated there are many building vacancies in industrial areas where the school should move. This business is a nuisance in the residential district and should be removed. **Ms. Cameron** also mentioned that the school displays signs along Riverwoods Road.

Trustee Brandt stated that the Village has approved a daycare center at the Village Green Center, where a fence was required. She also mentioned that it is not unusual for nursery and public and nursery schools to have extended hours due to both parents working. **Trustee Brandt** said that reaching a compromise between local churches and neighbors has proved difficult in other zoning requests as well. The Village Board always encourages petitioners to work it out with their neighbors. She encouraged all interested residents to come to the Village Board Committee of the Whole meeting regarding this request. She requested that Staff notify all surrounding property owners of the COW meeting date.

Planner Zozulya said that Staff is aware of DCFS fence requirements. However, in this case, Staff's understanding was that since the school is exempt from DCFS licensing requirements, they are not required to have a DCFS-compliant fence. She requested that the school provide further information to the Zoning Board regarding this issue.

Mina Dadrass, the owner of the Lincolnshire Montessori School, stated that the playground belongs to the church and the school is allowed to use it. The playground was built in 2000 by a family that is familiar with DCFS requirements. The school is not required to install a DCFS-compliant fence, based on its exemption from DCFS licensing requirements (this exemption is based on the school being registered with the Illinois Board of Education and recognized by the American Montessori Society). **Ms. Dadrass** stated that when the school operated under the previous ownership, before she purchased it, it was DCFS licensed but was never required to have a fence by DCFS. **Ms. Dadrass** said that since the June Zoning Board meeting, she has kept a log of outdoor playtime hours and attendance. She currently has 16 children enrolled in the school. She said that it is difficult to have the children out at the playground by 3:15 p.m. as they nap until 3 p.m., need to use the bathroom and have a snack. It is also a challenge to have them back in the building by 4 p.m. as children have a long way to walk from the playground. **Ms. Dadrass** inquired as to whether the Zoning Board has had the opportunity to visit the playground area and adjacent streets. **Member Van de Kerckhove** stated that he has visited the site. He found that the school children were not as loud as had been previously described by the neighbors. He could not hear them from Victoria Lane (as the children had moved from the playground area to the grassy area by the time he reached Victoria Lane) but could hear children playing outside at the Lincolnshire Community Nursery School, which operates on the Lutheran Church of the Holy Spirit property, just south of Victoria Lane. **Chairman Manion** stated that he also visited the playground area prior to tonight's meeting. **Ms. Dadrass** stated that her children are quiet. She also added that she believes the Lincolnshire Community Nursery School has 70 children. **Member Leider** stated that his understanding was that there are no residential noise ordinances in the Village Code. **Planner Zozulya** said that Staff spoke with the Chief of Police who confirmed that there are no local or state sound ordinances that the Village enforces in a residential area.

Katy Dadrass, the school administrator, stated that she was fifteen years old when her mother purchased the school. She said that her family depends on this business. She said the children are always in by 12 p.m. She stated that the reason they put out a school enrollment sign is because they have available slots, as they are allowed up to 25 children at any one time, per Code. She explained that the Long Grove Montessori School has a playground fence because that school is licensed with DCFS. It was her decision to obtain a DCFS license for their Long Grove school. The Lincolnshire Montessori School is not required to have a fence, as it is exempt from DCFS requirements.

Trustee Brandt requested that Staff look into the fence requirement further before this matter is submitted to the Village Board for review and approval. **Planner Zozulya** stated that this matter is currently scheduled for the July 23rd Committee of the Whole meeting.

Robert Howden, 2 Victoria Lane, warned the Zoning Board about setting a precedent should they recommend approval of the school's Special Use request. He also expressed support for the school playground hours discussed between Ms. Cooper and Pastor Elliott.

Chairman Manion requested comments from the Zoning Board.

Member Van de Kerckhove stated that he believes both sides have good cases. He recognizes the need for nursery schools in the community. He also understands, and is sympathetic to, neighbors' noise concerns, as they should be able to enjoy their yards. He would support changing or limiting outdoor playtime hours. He is also concerned about the fence being a potential safety issue but understands that it cannot be addressed at tonight's meeting.

Member Leider stated that this is a complex and emotional issue. He has not been presented with facts that there is a noise problem, especially since there are no Code requirements regarding permitted sound levels in residential zones. He does not believe the Zoning Board should impose any limitations on the school's operations. However, if the Board wants to place a stipulation, he would propose limiting each morning and afternoon playtime period to 45 minutes, to conclude by 12 p.m. and 4 p.m., respectively, rather than stipulating specific times.

Member Kalina said the main question is whether a Special Use Permit should be issued. He understands the need for educators but is conflicted on the Special Use request, which would be applied to the school retroactively. The use may be injurious to the neighbors as many residents spoke in opposition of this use in its current location. **Member Kalina** questioned the recommendation of the arborist regarding the installation of additional trees adjacent to the playground. He would vote in favor of the request with a stipulation regarding the outdoor playtime hours.

Chairman Manion stated that he feels the neighbors knew of the church and school when they moved in. Area public schools end their main programs by 3-3:30 p.m. They also have summer schools. The only way he can see himself supporting the request is placing a stipulation regarding the outdoor playtime hours. Extending the playtime to 5 p.m. or 6 p.m. seems excessive to him, since it would infringe on the residential neighborhood.

Member Kalina moved and Member Van de Kerckhove seconded a motion to approve, and recommend to the Village Board for their approval, a request for the issuance of a new Special Use Permit for the continued operation of an existing nursery school, to operate as an accessory use to the Community Christian Church, located at 1970 Riverwoods Road in the R1 Single-Family Residence Zoning District, based on facts covered in a Public Hearing held on June 12, 2012 and the Petitioner's Presentation Packets, dated June 5, 2012 and July 3, 2012, and date stamp received June 5, 2012 and July 3, 2012, respectively, as presented in Staff's memoranda, dated June 8, 2012 and July 6, 2012, and further subject to the following stipulation:

- 1. The outside playtime for the Lincolnshire Montessori School shall be limited to 45 minutes in the morning, concluding by 12 p.m., and to 45 minutes in the afternoon, concluding by 4 p.m., year round.*

The motion passed unanimously by voice vote.

Member Leider also suggested that as a courtesy, the church and school should notify adjacent neighbors of their new outdoor playtime hours.

4.0 UNFINISHED BUSINESS (None)

5.0 NEW BUSINESS

Trustee Brandt provided an update regarding the Village Board's approval of The Fresh Market grocery store on the downtown property. She invited the Zoning Board to attend the July 23rd Village Board meeting where this item will be further discussed. **Chairman Manion** requested that approved grocery store plans be provided to the Zoning Board with their next month's packets.

6.0 CITIZENS COMMENTS (None)

7.0 ADJOURNMENT

There being no further business, **Chairman Manion** adjourned the meeting at 9:15 p.m.

Minutes Submitted by Stephen Robles, Planner and Tonya Zozulya, Planner